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FILED

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

08 JAN 15 AM 11:45

UNITED STATES OF AMERICA,

Plaintiff,

v.

1.) Juan Gerardo HERRERA-Barrientos,
2.) Angel Timoteo OSUNA,

Defendant(s)

Magistrate Case No.

BY:

'08 MJ0110

COMPLAINT FOR VIOLATION OF:

Title 8 U.S.C., Sec. 1324 (a)(2)(B)(iii)
Bringing in Illegal Aliens Without
Presentation

The undersigned complainant, being duly sworn, states:


On or about **January 14, 2008**, within the Southern District of California, defendant **Juan Gerardo HERRERA-Barrientos** and **Angel Timoteo OSUNA**, with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely, **Bertha FARIAS-Hernandez, Jose HERNANDEZ-Martinez, Patricia PASCUAL-Hernandez and Rufino SANCHEZ-Mendez** had not received prior official authorization to come to, enter and reside in the United States, did bring to the United States said aliens and upon arrival did not bring and present said aliens immediately to an appropriate immigration officer at a designated port of entry; in violation of Title 8, United States Code, Section 1324(a)(2)(B)(iii).

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


SIGNATURE OF COMPLAINANT

James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **15th** DAY OF **January 2008**


Nita L. Stormes

UNITED STATES MAGISTRATE JUDGE

Juan Gerardo HERRERA-Barrientos**Angel Timoteo OSUNA****PROBABLE CAUSE STATEMENT**

Furthermore, the complainant states that **Bertha FARIAS-Hernandez, Jose HERNANDEZ-Martinez, Patricia PASCUAL-Hernandez and Rufino SANCHEZ-Mendez**, are citizens of a country other than the United States; that said aliens have admitted that they are deportable; that their testimony is material, that it is impracticable to secure their attendance at the trial by subpoena; and they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

On January 14, 2008, Senior Border Patrol Agent V. Arguello was performing line watch duties in the Imperial Beach area of responsibility. At approximately 6:50 a.m., Agent Arguello responded to a sensor activation near an area known as the "Pipeline". This area is approximately three miles west of the San Ysidro, California Port of Entry and 500 yards north of the United States/Mexico international border.

At approximately 7:00 a.m., Agent Arguello arrived in the area and observed a large group of individuals huddled together in the heavy brush. One individual later identified as defendant #1 **Juan Gerardo HERRERA-Barrientos** was at the north end of the group and appeared to be directing them by using hand signals. As Agent Arguello approached and identified himself as a Border Patrol Agent, defendant #1 started to run with the rest of group following him. After a brief foot chase and search of the area, Agent Arguello encountered eleven individuals including the defendant concealed in dense brush. One individual, later identified as defendant #2 **Angel Timoteo OSUNA**, was found hiding in close proximity to defendant #1. At this time, Agent Arguello performed an immigration inspection on each of the subjects. Each of the subjects, including defendant #1 and #2, freely admitted to being citizens and nationals of Mexico illegal present in the United States. All of the subjects were arrested and transported to Imperial Beach Border Patrol Station for processing.

STATEMENT OF DEFENANT #1

The defendant #1, Juan Gerardo **HERRERA-Barrientos**, was read the Miranda Rights in the Spanish language and was willing to answer questions without an attorney present. The defendant admitted to being a citizen and national of Mexico illegally present in the United States. The defendant admitted to illegally reentering the United States/Mexico border by climbing the international border fence with the purpose of traveling to Riverside, California and look for work. The defendant stated that he did not have any immigration documents that allowed him to legally enter or remain in the United States. Upon further questioning the defendant denied being an alien smuggler/foot-guide

MATERIAL WITNESSES STATEMENTS:

Material witnesses **Bertha FARIAS-Hernandez, Jose HERNANDEZ-Martinez, Patricia PASCUAL-Hernandez and Rufino SANCHEZ-Mendez**, each admitted to being citizens and nationals of Mexico illegally present in the United States. Each stated that they made arrangements in Mexico to be smuggled into the United States for a fee of \$1700.00 to \$4.000.00 (US). The material witnesses stated that they jumped over the international border fence and illegally entered the United States with aid of an alien smuggler/foot guide. They stated that the group of arrested by the Border patrol soon after.

Each person was shown a series of six (6) photographs:

Bertha FARIAS-Hernandez identified the defendant #1 HERRERA as the guide that led the group into the United States.

Jose HERNANDEZ-Martinez identified the defendant #1 HERRERA as the guide that led the group into the United States.

Patricia PASCUAL-Hernandez identified the defendant #2 OSUNA as the guide that guided her into the United States.

Rufino SANCHEZ-Mendez identified the defendant #1 HERRERA as the guide that guided him and the rest of the group into the United States.